

## **Remarks**

### **Claim Rejections – 35 U.S.C. §101**

Claim 1 has been cancelled. Claims 3 and 5 have been amended to incorporate the features of Claim 4. Claims 10 and 12 have been amended to incorporate the features of 11 and 14 respectively. Amended claims 2, 3, 5, 10 and 12 all recite the feature of a software agent being used to negotiate between buyers and sellers. The software agent comprising a transaction engine, negotiation engine and control means. Applicants therefore submit that, as the claimed invention simplifies the action of negotiation across a network and limits this to the use of software agents, the claims are directed towards statutory subject matter.

### **Claim Rejections – 35 U.S.C. §102**

Applicants submit that Carlton-Foss does not teach the use of a software agent comprising a negotiation engine. Rather, what is disclosed is the use of a database to store and evaluate bids submitted by a user in response to a request. Having placed a bid Carlton-Foss states that “authorized bidders are able to view selected parts of the bids and respond with revised proposals” (column 6 lines 14-16). Carlton-Foss describes this in more detail on lines 36 to 38 stating that “the bidder may modify it [information regarding the bid] by clicking on another hot spot, modify the information, and store changes by clicking on a submit button on the screen”.

Therefore, one skilled in the art would learn on reading Carlton-Foss that bids may be modified only by manually inputting altered information into a database storing information relating to bids.

Furthermore, Carlton-Foss goes on to state that “after the closing of a bid process, the maker of the request with respect to which the bids were submitted reviews the

bids and makes a determination as to which potential supplier or suppliers will be identified as the winners of the bid process" (column 6 lines 56-60). Therefore, one skilled in the art on reading Carlton-Foss would learn that the decision as to the winner of the bidding process may only be made by the requestor.

Hence, Applicants submit that Carlton-Foss does not disclose a software agent, comprising control means causing "the transaction engine to initiate or conduct e-commerce negotiations" as only the bidder may initiate a bid process by manually entering data in response to a request. Furthermore, as the requestor makes the determination as to the winner of the bid process, Applicants submit that Carlton Foss does not disclose a transaction engine capable of conducting e-commerce negotiations.

Although the reverse auction system described in Carlton-Foss does have an evaluation mechanism, this mechanism is not the equivalent to negotiation within the current invention. The evaluation mechanism in Carlton-Foss is disclosed as being carried out by a bid ranking manager which analyses cost information provided by bidder and other information considered important by the requestor (this is described in detail from column 10 line 57 to column 13 line 30). The bid ranking manager produces an evaluation value by which bids submitted in response to a request may be ranked.

Additionally, Carlton-Foss does not teach the use of any apparatus having "control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile" as claimed in Claim 1. Rather, as discussed above, Carlton-Foss teaches only that bidders may create or modify a bid.

Therefore, Applicants submit that all modifications to bids are carried out by the user and not by a software agent, which is not even disclosed and hence Carlton-Foss

does not disclose the use of "a software agent for a party conducting electronic trading".

As claims 3, 10 and 12 all claim a software agent as claimed in Claim 2, Applicants submit that these claims are not anticipated by Carlton-Foss. Applicants also submit that Claims 13, 16, 17, 18, 20, 21 and 26 are not anticipated by Carlton-Foss at least by virtue of their dependencies.

Claim 5 recites that "buyers' agents co-operate to produce a call for proposal to purchase collectively from one or more seller. Applicants submit that Carlton-Foss does not disclose this feature. Rather, Carlton-Foss discloses a single request being entered into the request database and therefore only one request being bid for at any one time. Nowhere does Carlton-Foss suggest the reverse-auction system combining two requests so that the requestors "purchase collectively from one or more seller".

Hence, Applicants submit that Claim 5 is not anticipated by Carlton-Foss. Applicants also submit that Claims 7, 8, 9 and 18 are not anticipated by Carlton-Foss at least by virtue of their dependency on Claim 5.

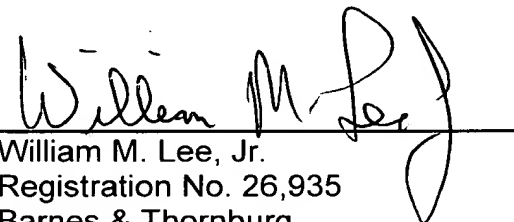
Finally, Claims 27 and 28 claim a software agent "responding to a proposal for providing provision of the service from a second agent". As discussed above Carlton-Foss does not disclose the use of a software agent "responding to a proposal" within a system for performing an automated reverse auction. Rather, what is disclosed is the manual creation and modification of bids in response to requests which are stored in databases, the evaluation of the bids, and returning of the bids and their evaluations as worksheets. Hence the Applicants submit that one skilled in the relevant art at the time of the invention would only learn to automate the process of evaluation of the bids and not to negotiate a better deal without actually pick up the phone.

Therefore, Applicants submit that Carlton-Foss does not anticipate the features of Claims 27 and 28. Applicants also submit that Claims 15 and 22 to 25 are not anticipated by Carlton-Foss at least by virtue of their dependencies.

Given the above, this application is submitted to be in condition for allowance, and such action is solicited.

April 16, 2004

Respectfully submitted,

  
William M. Lee, Jr.  
Registration No. 26,935  
Barnes & Thornburg  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 214-4800  
(312) 759-5646 (fax)